

## CHAPTER 13.34

### Erosion Control Practices

#### 13.34.010 Definitions.

For the purposes of this Chapter, the following terms shall have the following meanings:

*Authorized enforcement agency* means employees or designees of the City of Evans designated to enforce this Chapter.

*Certified contractor* means a person who has received training and is licensed by Colorado Department of Transportation to inspect and maintain erosion and sediment control practices.

*Clearing* means any activity that removes the vegetative surface cover.

*Drainage way* means any channel that conveys surface runoff.

*Erosion control* means a measure that prevents erosion.

*Erosion and sediment control plan* means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

*Grading* means excavation or fill of material, including the resulting conditions thereof.

*Perimeter control* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Phasing* means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*Sediment control* means measures that prevent eroded sediment from leaving the site.

*Site* means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

*Site development permit* means a permit issued by the City for the construction or alteration of improvements and structures for the control of erosion and runoff.

*Stabilization* means the use of practices that prevent exposed soil from eroding.

*Start of construction* means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Watercourse* means any body of water, including but not limited to lakes, ponds, rivers, streams and bodies of water delineated by the City of Evans.

*Waterway* means a channel that directs surface runoff to a watercourse or to the public storm drain.  
(Ord. 405-07)

#### **13.34.020 Permits.**

A. A site development permit is required for all land-disturbing activity that would require the uncovering of one (1) acre or more. The applicant is required to submit an erosion and sediment control plan to the Colorado Department of Public Health and Environment if greater than five (5) acres or the City of Evans if greater than one (1) acre and less than or equal to five (5) acres.

B. No site development permit is required for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

2. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

C. Each application shall bear the names and addresses of the owner or developer of the site and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

D. Each application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the erosion and sediment control plan and that a certified contractor shall be on site on all days when construction or grading activity takes place.

E. The applicant will be required to file with the City an amount in escrow deemed sufficient by the City to cover all costs of improvements, landscaping and maintenance of improvements, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site for a period from the beginning of construction to the end of the two-year warranty period. (Ord. 405-07)

#### **13.34.030 Review and approval.**

A. The City will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within thirty (30) days after receiving an application, the City shall, in writing:

1. Approve the permit application; or,

2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or,

3. Disapprove the permit application, indicating the reasons and procedure for submitting a revised application and/or submission.

B. Failure of the City to act on an original or revised application within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City.  
(Ord. 405-07)

#### **13.34.040 Erosion and sediment control plan.**

The erosion and sediment control plan shall include the following:

A. An existing condition map identifying soils, wetlands, drainage ways and resources protected under this Code. This map should be at a scale no smaller than 1" = 100'.

B. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures and establishment of permanent vegetation.

C. All erosion and sediment control measures necessary to meet the objectives of local and state regulations throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each construction season.

D. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

E. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

F. Modifications to the plan shall be processed and approved or disapproved in the same manner as defined under Subsection C above may be authorized by the City for smaller developments and by the CDPHE for larger developments by written authorization to the permittee, and shall include:

1. Major amendments of the erosion and sediment control plan;
2. Field modifications of a minor nature. (Ord. 405-07)

#### **13.34.050 Design requirements.**

A. Grading, erosion control practices, sediment control practices and waterway crossings shall meet the design criteria set forth in the most recent version of the erosion and sediment control manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City.

B. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

C. Erosion control requirements shall include the following:

1. Soil stabilization shall be completed within thirty (30) days of clearing or inactivity in construction.

2. If seeding or another vegetative erosion control method is used, it shall become established within thirty (30) days or the City may require the site to be reseeded or a nonvegetative option employed.

3. Special techniques that meet the design criteria outlined in the Urban Drainage and Flood Control District Drainage Criteria Manual on steep slopes or in drainage ways shall be used to ensure stabilization.

4. Soil stockpiles must be stabilized or covered at the end of each workday.

5. The entire site must be stabilized, using crimped straw or another method approved by the City at the end of rough grading, at the close of the construction season and/or at the initial acceptance.

6. Techniques approved by the City shall be employed to prevent the blowing of dust or sediment from the site within fourteen (14) days of the end of initial rough grading.

7. Techniques that divert upland runoff past disturbed slopes shall be employed.

8. Protection for adjacent properties and existing lakes and waters of the state by the use of a vegetated buffer strip in combination with perimeter controls.

9. Waterway and watercourse protection requirements shall include:

a. A temporary stream crossing installed and approved by the U.S. Army Corps of Engineers if a wet watercourse will be crossed regularly during construction.

b. Stabilization of the watercourse channel before, during and after any in-channel work.

c. All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the City's Drainage Criteria Manual.

d. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

10. Construction site access requirements shall include:

a. A temporary tracking control strip provided at all sites.

b. Other measures required by the City or the State in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains. (Ord. 405-07)

#### **13.34.060 Inspection.**

A. The City or its designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating and filling work bearing the stamp of approval of the City or the State shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City at least two (2) working days before the following:

1. Start of construction.

2. Installation of sediment and erosion measures.

3. Completion of site clearing.
4. Completion of rough grading.
5. Completion of final grading.
6. Close of the construction season.
7. Completion of final landscaping.

B. The permittee or his or her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plans. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City within twenty-four (24) hours after inspection.

C. The City, the Colorado Department of Public Health and Environment or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the permittee's erosion control inspection reports filed in accordance with Subsection B above. (Ord. 405-07)

#### **13.34.070 Enforcement.**

A. Stop-work order; revocation of permit.

1. In the event that any person holding a site development permit pursuant to this Chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.

2. The City will issue a stop-work order to any person that disturbs a land area greater than one (1) acre without submitting an erosion control plan to the City and/or the Colorado Department of Public Health and Environment.

B. Violation and penalties. No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done contrary to or in violation of any terms of this Chapter. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this Chapter is committed, continued or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership or corporation may be punished by a fine for each offense. In addition to any other penalty authorized by this Section, any person, partnership or corporation convicted of violating any of the provisions of this Chapter shall be required to bear the expense of such restoration. (Ord. 405-07)

#### **13.34.080 Severability.**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter. (Ord. 405-07)

#### **13.34.090 Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the City. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. A hearing on the appeal before the Zoning Board of Appeals shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Zoning Board of Appeals shall be final. (Ord. 405-07)

#### **13.34.100 Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within fourteen (14) days of the decision of the City upholding the decision, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above. (Ord. 405-07)

#### **13.34.110 Cost of abatement of violation.**

Within fourteen (14) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fourteen (14) days. If the amount due is not paid within a timely manner as determined by the City, or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The City may then certify the balance due to the County Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected. Any person violating any of the provisions of this Section shall become liable to the City by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eighteen percent (18%) per annum shall be assessed on the balance beginning on the ninetieth day following discovery of the violation. (Ord. 405-07)

#### **13.34.120 Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate the provisions of this Chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation. (Ord. 405-07)

#### **13.34.130 Compensatory action.**

In lieu of enforcement proceedings, penalties and remedies authorized by this Chapter, the City may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc. (Ord. 405-07)

#### **13.34.140 Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety and welfare and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken. (Ord. 405-07)

**13.34.150 Remedies not exclusive.**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. 405-07)

**13.34.160 Violation – penalty.**

Any person who violates any of the provisions of this Chapter shall be punished as provided in Section 1.16.010 of this Code. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses. (Ord. 405-07)